



EMPLOYMENT TRIBUNALS

Claimant: Mr G Rakoczy

Respondent: Manchester University NHS Foundation Trust

RECONSIDERATION JUDGMENT

The claimant's application dated 22 June 2019 for reconsideration of the judgment sent to the parties on 11 June 2019 is refused.

REASONS

1. I have undertaken preliminary consideration of the claimant's application for reconsideration of the Judgment sent to the parties on 11 June 2019 in which I struck out his complaint of unfair dismissal, some of his complaints of whistle-blowing detriment, some of his race discrimination complaints, and all his complaints of direct age discrimination. That application is contained in a ten page letter provided by email on 22 June 2019.

2. I must apologise to the parties for the delay in giving this matter preliminary consideration. The claimant's letter was referred to me on 3 July 2019, and I instructed that the respondent be allowed a period to comment upon it before I undertook preliminary consideration. Due to administrative delays that instruction was not actioned by the administrative staff until 9 August 2019. The respondent had in fact already provided comments on the application by email of 30 July 2019. I was on annual leave at the time and the matter was considered by the Regional Employment Judge who directed that it be referred to me upon my return to the office.

3. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the Judgment (rule 70). Rule 72(1) empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked. In exercising that power I applied the overriding objective in rule 2, namely to deal with cases fairly and justly.

4. The claimant makes a number of different points in his application, offering comments on a number of different passages in my Judgment and Reasons.

However, these points are either points which were already raised and considered at the preliminary hearing on 28 May 2019, or matters which could and should have been raised at that time. For example, the claimant reiterates the significance in his view of the decision of the MPTS in February 2019, but I explained in paragraph 20 of the Reasons accompanying the Judgment why I did not consider that to be as relevant as he does.

5. It is not in accordance with the overriding objective for a judgment to be reconsidered and revoked simply because the claimant makes the same points again, or seeks to raise points which could reasonably have been raised in the previous hearing. Having considered the points made by the claimant in his application, therefore, I am satisfied that there is no reasonable prospect of my Judgment being varied upon reconsideration. The application for reconsideration is refused.

6. Finally, I record that the claimant has not paid the deposit which I ordered in relation to those race discrimination complaints which were not struck out, and therefore Judgment will be promulgated separately dismissing those remaining complaints of race discrimination. The issues to be determined at the final hearing are now restricted to complaints of whistle-blowing detriment contrary to section 47B Employment Rights Act 1996.

7. One of the points made by the claimant in his reconsideration application was his desire to retain allegations which had been labelled LFT1-LFT9 because they formed part of the race discrimination complaint. They have now fallen away. However, if the claimant considers that those matters are evidentially relevant to his remaining complaints of whistle-blowing detriment they can be raised in his witness statement and other documents before the Tribunal. However, the claimant will need to be able to explain why he considers those matters to be relevant.

Employment Judge Franey

2 October 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

15 October 2019

FOR THE TRIBUNAL OFFICE

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